

# **Exhibit A**

**Sherman, Liza H.**

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**From:** David Eagle [DEAGLE@klehr.com]  
**Sent:** Monday, October 10, 2005 9:49 AM  
**To:** Sherman, Liza H.  
**Cc:** McNally, Edward  
**Subject:** RE: Elsmere Park Litigation

Liza -

Please clarify that you have responsive documents from JAB since 9/21, and let us know the volume. We will need to see those asap; please re-send your proposed confidentiality stip.

Thank you, David.

>>> "Sherman, Liza H." <LSherman@morrisjames.com> 10/07/05 5:13 PM >>>  
Mr. Eagle,

I am not quite sure what you mean by the "status of the JAB subpoena," but as set forth in our Daubert Motion, and my Affidavit filed on the same date, JAB permitted us to enter their premises and review their files for responsive documents on September 21, 2005. The document attached to the Daubert motion at A.227-232 is the electronic summary of expenses by vendor and date which JAB produced to us on that date. Our review did yield the underlying documentation, but, pursuant to the terms upon which JAB agreed to voluntarily and cooperatively make the documents available to the Defendants, the refusal on Mr. Scheicher's part to enter into a run-of-the-mill confidentiality stipulation prevents us from forwarding those documents to you. If you have reconsidered that position, please advise and I will recirculate the draft stipulation originally forwarded for comment and review on September 20, 2005.

If I have misunderstood your question, please let me know.

--Liza Sherman

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-----Original Message-----

**From:** David Eagle [<mailto:DEAGLE@klehr.com>]  
**Sent:** Friday, October 07, 2005 8:40 AM

11/2/2005

**To:** McNally, Edward  
**Cc:** Sherman, Liza H.; Tosi, Liza  
**Subject:** Re: Elsmere Park Litigation

Ed - my proposal will include an opportunity for you to serve a rebuttal report (30 days from 10/6) and depose Johnson on his supplement. Could you or one of your colleagues let us know the status of the JAB subpoena, i.e., docs. underlying the spreadsheet attached to your Daubert motion? Thank you.

David.

>>> "McNally, Edward" <emcnally@morrisjames.com> 10/07/05 8:25 AM >>>  
David: I am leaving town tonight and will be back Monday. While I am gone please:

1. come up with a proposal that will resolve the obvious problem of your client providing a "supplemental" expert report after the deadline and even after the Town's time to submit a expert report on "cure" costs has passed, and
  2. dates for the Wilk deposition. In deference to you I will schedule it for Friday, October 14 and will only move that date if you have a date that works for me and is no later than 10/19.
- Ed

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# **Exhibit B**

**Sherman, Liza H.**

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**From:** Sherman, Liza H.  
**Sent:** Tuesday, September 20, 2005 12:02 PM  
**To:** 'pcostell@klehr.com'  
**Subject:** Elsmere/Stipulated Protective Order with JAB

Patrick,

I attach for your review and commentary a draft stipulated protective order to address the JAB matter we discussed yesterday. I welcome your thoughts and comments. Please be advised, however, that our clients have not yet signed off on this draft and thus there may be some additional changes at our end that will ultimately need your approval as well.

Thanks in advance,  
Liza

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11/2/2005